

CHRISTOPHER L. EVANS
chris@offorevans.com
CHIJOKE E. OFFOR
chiji@offorevans.com
OFFOR EVANS PLLC
1122 Jackson Street, Ste 901
Dallas, TX 75202
Telephone: 1(214) 394-6779

MICHAEL W. SHORE
mshore@shorefirm.com
THE SHORE FIRM LLP
5646 Milton Street, Ste 423
Dallas, TX 75206
Telephone: 1(214) 593-9140
Facsimile: 1(214) 593-9111

Attorneys for Defendant
CM HK, Ltd.

JAMES L. JACOBS
jjacobs@gcalaw.com
VALERIE MARGO WAGNER
vwagner@gcalaw.com
GCA LAW PARTNERS LLP
2570 W. El Camino Real, Suite 400
Mountain View, CA 94040
Telephone: 1(650) 428-3900
Facsimile: 1(650) 428-3901

Attorneys for Defendant
CM HK, Ltd.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

SAMSUNG ELECTRONICS CO. LTD.
AND SAMSUNG ELECTRONICS
AMERICA, INC.,

Plaintiffs,

v.

CM HK, LTD.,

Defendant.

Case No. 4:24-CV-06567-JST

**DEFENDANT CM HK, LTD.'s
NOTICE OF MOTION AND MOTION
FOR RECONSIDERATION OF
ORDER DENYING MOTION TO
TRANSFER VENUE**

Date: TBD

Time: _____

Courtroom: Courtroom 6 – 2nd Floor

Judge: Hon. Jon S. Tigar

NOTICE OF MOTION AND MOTION FOR RECONSIDERATION

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on _____, 2025 at _____ o'clock. or as thereafter as the matter may be heard in the above-entitled Court, the Honorable Jon. S. Tigar presiding, located at the Oakland Courthouse, Courtroom 6, 2nd floor, 1301 Clay Street, Oakland, California 94612, Defendant CM HK, Ltd. will and hereby does respectfully move for reconsideration of the Order Denying its Motion to Transfer this case to the Eastern District of Texas under 28 U.S.C. §§ 1404(a) and 1406(a).

This motion is authorized and brought on the grounds that a manifest failure to consider timely presented material facts occurred when the Court denied Defendant's transfer motion without considering the convenience factors as prescribed by the Federal Circuit. Dkt. 108 (granting Defendant's motion for leave to file motion for reconsideration); Loc. R. 7-9(b)(2)–(3). Reasoned consideration of such factors supports transfer.

This motion is based on this Notice of Motion and Motion for Reconsideration, including the Memorandum of Points and Authorities below, Defendant's Motion to Transfer Venue (Dkt. 81), including the Memorandum of Points and Authorities (*id.*), the Declaration of Christopher L. Evans (Dkt. 81-12), and all exhibits (Dkt. 81-1–Dkt. 81-11) filed in support, Plaintiffs' Opposition to (Dkt. 82, Dkt. 83) and Defendant's Reply in Support of (Dkt. 87) Defendant's Motion to Transfer Venue, together with all pleadings and filings in this action, all matters of which this Court may take judicial notice or find to be incorporated by reference, and such other evidence or argument as may be presented.

1 Date: September 5, 2025

By: /s/Christopher L. Evans

2 Christopher L. Evans (TX Bar No. 24058901)*
3 Chijioke E. Offor (TX Bar No. 24065840)*

4 **OFFOR EVANS PLLC**

5 1122 Jackson Street, No. 901
6 Dallas, Texas 75202
7 Tel: (214) 593-9121
8 chiji@offorevans.com
9 chris@offorevans.com
10 *Pro Hac Vice

11 MICHAEL W. SHORE
12 mshore@shorefirm.com

13 **THE SHORE FIRM LLP**

14 5646 Milton Street, Ste 423
15 Dallas, TX 75206
16 Telephone: 1(214) 593-9140
17 Facsimile: 1(214) 593-9111

18 **JAMES L. JACOBS**

19 jjacobs@gcalaw.com

20 **VALERIE MARGO WAGNER**

21 vwagner@gcalaw.com

22 **GCA LAW PARTNERS LLP**

23 2570 W. El Camino Real, Suite 400
24 Mountain View, CA 94040
25 Telephone: 1(650) 428-3900
26 Facsimile: 1(650) 428-3901

27 Attorneys for Defendant CM HK, Ltd.
28

TABLE OF CONTENTS

I. INTRODUCTION	1
II. LEGAL STANDARD	2
A. Local Rule 7-9(b)(2) and (3)	2
B. 28 U.S.C. § 1404(a) and The Declaratory Judgment Act	2
III. ARGUMENT	4
A. The August 21 Order Does Not Apply Undisputed Facts Showing the § 1404 Factors Favor Texas. .	4
B. Samsung’s Action Does Not Serve The Purposes of the Declaratory Judgment Act.	6
IV. CONCLUSION.....	6

TABLE OF AUTHORITIES

CASES:

<i>Commc'ns Test Design, Inc. v. Contec, LLC</i> , 952 F.3d 1356 (Fed. Cir. 2020)	3
<i>Micron Tech., Inc. v. Mosaid Techs., Inc.</i> , 518 F.3d 897 (Fed. Cir. 2008)	2, 3, 4
<i>Sensus USA Inc v. Badger Meter Inc.</i> , No. 16-cv-03376-LHK, 2016 WL 5390300 (N.D. Cal. Sept. 27, 2016)	2, 4
<i>Wilton v. Seven Falls Co.</i> , 515 U.S. 277 (1995)	2

STATUTES:

28 U.S.C. § 1404	2
28 U.S.C. § 1406	2
28 U.S.C. § 2201	2

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

The issue is whether the Eastern District of Texas is the more convenient and suitable forum to determine whether Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. (collectively “Samsung”) infringe two United States patents assigned to CM HK, Ltd.¹

On Thursday, August 21, 2025, the Court denied CM HK’s Motion to Transfer Venue to the Eastern District of Texas (the “August 21 Order”).²

“In light of the issuance of the stay in *CM HK, Ltd., v. Samsung Electronics Co. Ltd.*, Case No. 2:24-cv-00880 (E.D. Tex.), the motion to transfer [81] is denied. (This is a text-only entry generated by the court. There is no document associated with this entry.) (cwlc2, COURT STAFF) (Filed on 8/21/2025).”

Shortly before the Court entered the August 21 Order, the parties had filed a Notice informing the Court that the CM HK Action was stayed pending a decision by this Court disposing of this action. *See* Dkt. 100 (the “Notice”) (Informing Court of Texas district court’s stay order which requests notice of “any dispositive decision”). The August 21 Order indirectly references the Notice as the Court’s basis to deny the Motion to Transfer (Dkt. 81). Having obtained leave to file a motion for reconsideration, *see* Dkts. 107 and 108, CM HK now moves for reconsideration of the August 21 Order.

The August 21 Order denies the Motion to Transfer without undertaking the analysis prescribed for such decisions by the Federal Circuit. There was no objection from Samsung that any evidence offered or facts pled by CM HK in support of the Motion to Transfer were inadmissible or otherwise contested. *See* Dkt. 82. Reasoned consideration of the undisputed record, and application of those undisputed facts to the law requires this action’s dismissal

¹ *See CM HK, Ltd., v. Samsung Electronics Co. Ltd.*, Case No. 2:24-cv-00880 (E.D. Tex.) (the “CM HK Action”). The CM HK Action accuses Samsung of infringing 2 of the 4 patents Samsung put at issue in this matter.

² Dkt. No. 101.

or transfer to the Eastern District of Texas, the more convenient and suitable venue.

II. LEGAL STANDARD

A. Local Rule 7-9(b)(2) and (3)

A motion for reconsideration may be granted in this District upon showing “[a] manifest failure by the Court to consider material facts or dispositive legal arguments which were presented to the Court before such interlocutory order.” *See* N.D. Cal. Civ. L.R. 7-9(b)(2) and (3).

B. 28 U.S.C. § 1404(a) and The Declaratory Judgment Act

Under 28 U.S.C. § 1404(a), a case may be transferred to a district in which it might have been brought “[f]or the convenience of parties and witnesses, in the interest of justice. . . .” 28 U.S.C. § 1404(a). “In this analysis, a court balances the convenience of the parties, witnesses, and access to evidence, and the interest of justice or expediency.” *Sensus USA Inc v. Badger Meter Inc.*, No. 16-cv-03376-LHK, 2016 WL 5390300, at *5 (N.D. Cal. Sept. 27, 2016) (citing *Micron Tech., Inc. v. Mosaid Techs., Inc.*, 518 F.3d 897, 904 (Fed. Cir. 2008)). The same factors considered “in [patent] cases involving the dismissal of a declaratory judgment action and ‘competing forum interests’” are considered when determining whether to transfer an action under § 1404(a). *Sensus USA*, 2016 WL 5390300, at *5; *Micron Tech.*, 518 F.3d at 904–05 (recognizing “the jurisdiction question is basically the same as a transfer action under § 1404(a)” and “[t]he considerations affecting transfer to or dismissal in favor of another forum do not change simply because the first-filed action is a declaratory action”).

The Declaratory Judgment Act (“DJA” or “Statute”) confers on federal courts “unique and substantial discretion in deciding whether to declare the rights of litigants.” *Wilton v. Seven Falls Co.*, 515 U.S. 277, 286 (1995). On its face, the Statute provides that a district court “*may* declare the rights and other legal relations of any interested party seeking such declaration.” 28 U.S.C. § 2201(a) (emphasis added). The DJA grants a district court broad discretion, but in deciding whether to hear a DJA case, the court is directed to exercise its

1 jurisdiction to “act[] in accordance with the purposes of the Declaratory Judgment Act and
2 the principles of sound judicial administration.” *Commc’ns Test Design, Inc. v. Contec, LLC*,
3 952 F.3d 1356, 1361–62 (Fed. Cir. 2020) (citations and internal quotations omitted). The
4 first issue is whether keeping this case on the Court’s docket is consistent with the DJA’s
5 purpose.

6 In patent cases, “the purpose of the Declaratory Judgment Act . . . is to provide the
7 allegedly infringing party *relief from uncertainty and delay* regarding its legal rights.” *Id.* at
8 1362 (citations omitted) (Emphasis added). Thus, when deciding whether this case remains
9 in California, the Court must ask first, “Which forum is more certain to yield a final, certain
10 result?” The answer to that question is “The forum where neither side is contesting
11 jurisdiction or venue.” Certainty and finality favor the Eastern District of Texas.

12 The second part of the analysis is which venue will be able to hear the dispute faster,
13 thereby meeting the DJA’s stated purpose to avoid delay. Setting aside the lack of personal
14 jurisdictional and assuming the case is tried only one time, this Court’s past practice applied
15 here would set a schedule and allow discovery only *after* Samsung completes jurisdictional
16 discovery, files an amended complaint, CM HK files a Rule 12 motion, the Rule 12 issues
17 are fully briefed, the Court hears argument (if required), and the Court issues a reasoned
18 opinion and order. The Eastern District of Texas is the forum with the most efficient path to
19 a certain result.

20 CM HK also asks the Court to consider the convenience and suitability of the competing
21 forums holistically, considering the venues’ relative pros and cons as to convenience. *Micron*
22 *Tech.*, 518 F.3d at 904 (“[T]he district court judge faced with reaching a jurisdictional
23 decision about a declaratory judgment action with an impending infringement action either
24 filed or on the near horizon should not reach a decision based on any categorical rules. The
25 first-filed suit rule . . . will not always yield the most convenient and suitable forum.
26 Therefore, the trial court weighing jurisdiction additionally must consider the real
27 underlying dispute: the convenience and suitability of competing forums.”).

1 The Federal Circuit made clear in *Micron Tech.* that in such cases, “[t]he convenience
 2 and availability of witnesses, absence of jurisdiction over all necessary or desirable parties,
 3 possibility of consolidation with related litigation, or considerations relating to the interest
 4 of justice *must* be evaluated.” *Id.* at 905 (emphasis added). These factors can be sound
 5 reasons that would make it unjust or inefficient to continue a first-filed declaratory action.
 6 *Sensus USA*, 2016 WL 5390300, at *2; *see also Micron Tech.*, 518 F.3d at 905.

7 III. ARGUMENT

8 The undisputed facts show the most convenient forum for the parties, witnesses, and
 9 evidence is the Eastern District of Texas, a forum that includes a Samsung regional
 10 headquarters. Samsung employees with relevant knowledge reside and work in the Eastern
 11 District of Texas. One of those Samsung Eastern District of Texas workers has already been
 12 deposed in the CyWee Action. Documents are maintained in the Eastern District of Texas.
 13 No documents or witnesses are located in this district. Judicial economy favors Texas.

14 Although now stayed, the CM HK Action, less than a month ago, had a July 2026 trial
 15 setting. If this case was dismissed or transferred soon, the July 2026 trial may be reinstated
 16 or only moved a few weeks. The CM HK Action is the most convenient and suitable vehicle
 17 in the most appropriate venue for fully and efficiently resolving the parties’ disputes.
 18 Samsung’s claims lack *any* connection to the Northern District of California and could have
 19 been brought in Texas.

20 A. The August 21 Order Does Not Apply Undisputed Facts Showing the § 1404 21 Factors Favor Texas.

22 Since 2019, Samsung has maintained a major presence in Plano, Texas, a city in the
 23 Eastern District of Texas. Dkt. 81 at 6, 10; Dkt. 81-1 at 1–2. Specifically, Samsung’s campus
 24 located 6625 Excellence Way, Plano Texas 75023 has “over 84-acres and 1,000,000 square
 25 feet of office space” and “is home to Samsung Electronics America’s second biggest
 26 employee population in the U.S. across multiple divisions – Customer Care, Mobile, Mobile
 27 R&D and Engineering.” *See id.*

Moreover, the parties agree the Eastern District of Texas enjoys jurisdiction over all parties and any claims between them. The CM HK Action asserts 2 of the 4 patents in suit.³ *See* Dkt. 81 at 8, 10. The parties had secured a scheduling order, exchanged initial disclosures, commenced discovery, and were set for trial in July 2026. *See* Dkt. 81 at 8, 10; Dkt. 81-13 at 3 (Declaration of Christopher Evans) (“Evans Decl.”); Dkt. 81-2 (containing Samsung’s initial disclosures in the Texas action); Dkt. 81-5 (reflecting discovery and depositions in Texas action). That schedule or something close to it would be reinstated if this action were dismissed or transferred soon.

While Samsung has identified potential witnesses in Taiwan and Korea and potentially someone from Qualcomm, Samsung also identified multiple of its Plano, Texas-based employees as having information concerning the marketing or the “sale of the accused products in the United States,” which Samsung may rely on to rebut or limit claims and acts of direct infringement. Dkt. 81 at 10; Dkt. 81-2 at 7 (disclosing Texas employees Guy Waitley and Sean Diaz as witnesses Samsung may rely on); Dkt. 81-3 (Diaz LinkedIn profile); Dkt. 81-4 (Waitley LinkedIn profile). CM HK has identified additional Plano-based Samsung employees with potential knowledge relevant to acts of direct infringement. Dkt. 81 at 10; Dkt. 81-13 at 3; Dkt. 81-5; Dkt. 81-6; Dkt. 81-7. It is undisputed these Texas witnesses are subject to the compulsory process of the Eastern District of Texas.

This Court does not possess personal jurisdiction over CM HK. Any trial here carries the risk of reversal on grounds not raisable in the Eastern District of Texas. Samsung’s declaratory actions have no connection to California beyond a lawyer representing Samsung lives, or works in San Diego. Dkt. 73 at 12–18; *see* Dkt. 81 at 11–12. The Court found the Samsung entities “are [not] California corporations, and neither entity has a principal place

³ The Texas case involves U.S. Patent No. 10,852,846 (the “’846 patent”) and U.S. Patent No. 11,698,687 (the “’687 patent”), both of which are the subject of Samsung’s declaratory judgment action. *Compare* Dkt. 51-2 at 50–52 ¶¶ 88–101 (pleading infringement of the ’846 and ’687 patents in the Texas case) *with* Dkt. 24 at 13–15 ¶¶ 79–90 (seeking declaratory judgment of non-infringement of the ’846 and ’687 patents here); *see also* Dkt. 81-2 at 3-4.

1 of business in California” and that Samsung’s declaratory action has no connection to
 2 California other than the fact that Samsung’s lawyers happened to be in California. *Id.* at 13,
 3 18–19.

4 Samsung’s strategy has always been to use this action for delay and to drive up expenses
 5 for CM HK. Samsung waited 25 days to *begin* seeking Court-permitted jurisdictional
 6 discovery and proposed that the parties spend the remainder of 2025 resolving an
 7 insufficiently pled alter ego theory. *See* Dkt. 81 at 11–12 (illustrating schedule proposed by
 8 Samsung).

9 **B. Samsung’s Action Does Not Serve The Purposes of the Declaratory Judgment Act.**

10 The parties have no connection to California. Between 2017 and 2024, first CyWee, then
 11 patent assignee CM HK, directed activities toward Samsung, which has maintained a
 12 regional headquarters in the Eastern District of Texas since 2019. Samsung was actually in
 13 litigation with CyWee in the Eastern District of Texas when this action was filed. Thus, if
 14 Samsung could have brought this case under an alter ego theory, it could have used that
 15 same theory in the Eastern District of Texas.

16
 17 Finally, Samsung’s filing of this declaratory judgment action and its subsequent actions
 18 in delaying its resolution are contrary to the objectives of the Declaratory Judgment Act.⁴

19 **IV. CONCLUSION**

20 CM HK has demonstrated the convenience of the parties and witnesses, the location of
 21 evidence, and the interests in conserving judicial resources for matters where certainty can
 22 be provided on the merits of the parties’ dispute all favor transfer to the Eastern District of
 23 Texas. CM HK respectfully requests that the Court reconsider the August 21 Order and
 24 transfer this case to the Eastern District of Texas, or alternatively to exercise its broad
 25 discretion to decline declaratory judgment jurisdiction in accordance with the objectives of
 26

27 ⁴ *See* Dkt. 93 (CM HK’s Rule 11 Motion for Sanctions).

1 the Declaratory Judgment Act.

2 Date: September 5, 2025

By: /s/ Christopher L. Evans

3 Christopher L. Evans (TX Bar No. 24058901)*
4 Chijioke E. Offor (TX Bar No. 24065840)*

5 **OFFOR EVANS PLLC**

1122 Jackson Street, #901

Dallas, Texas 75202

Tel: (214) 593-9121

chiji@offorevans.com

chris@offorevans.com

*Pro Hac Vice

9 MICHAEL W. SHORE

mshore@shorefirm.com

11 THE SHORE FIRM LLP

5646 Milton Street, Ste 423

Dallas, TX 75206

Telephone: 1(214) 593-9140

Facsimile: 1(214) 593-9111

14 JAMES L. JACOBS

jjacobs@gcalaw.com

15 VALERIE MARGO WAGNER

vwagner@gcalaw.com

16 GCA LAW PARTNERS LLP

2570 W. El Camino Real, Suite 400

Mountain View, CA 94040

Telephone: 1(650) 428-3900

Facsimile: 1(650) 428-3901

Attorneys for Defendant CM HK, Ltd.